

## STATE OF SOUTH CAROLINA

## (Caption of Case)

App. of Time Warner Cable Information Svs. (S. C.),  
 LLC, d/b/a Time Warner Cable to Amend its  
 Certificate of Public Convenience and Necessity to  
 Provide Telephone Services in the Service Area of  
 PBT Telecom, Inc., and for Alternative Regulation

BEFORE THE  
 PUBLIC SERVICE COMMISSION  
 OF SOUTH CAROLINA

## COVER SHEET

## DOCKET

NUMBER: 2008 - 328 - C

(Please type or print)

Submitted by: Margaret M. FoxSC Bar Number: 65418Address: McNair Law Firm, P.A.Telephone: 803-799-9800P. O. Box 11390Fax: 803-753-3219Columbia, SC 29211

Other: \_\_\_\_\_

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

**DOCKETING INFORMATION** (Check all that apply)☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☐ Other: \_\_\_\_\_**INDUSTRY (Check one)****NATURE OF ACTION (Check all that apply)**☐ Electric☐ Affidavit☐ Letter☐ Request☐ Electric/Gas☐ Agreement☐ Memorandum☐ Request for Certification☐ Electric/Telecommunications☐ Answer☐ Motion☐ Request for Investigation☐ Electric/Water☐ Appellate Review☐ Objection☐ Resale Agreement☐ Electric/Water/Telecom.☐ Application☐ Petition☐ Resale Amendment☐ Electric/Water/Sewer☐ Brief☐ Petition for Reconsideration☐ Reservation Letter☐ Gas☐ Certificate☐ Petition for Rulemaking☒ Response☐ Railroad☐ Comments☐ Petition for Rule to Show Cause☐ Response to Discovery☐ Sewer☐ Complaint☐ Petition to Intervene☐ Return to Petition☒ Telecommunications☐ Consent Order☐ Petition to Intervene Out of Time☐ Stipulation☐ Transportation☐ Discovery☐ Prefiled Testimony☐ Subpoena☐ Water☐ Exhibit☐ Promotion☐ Tariff☐ Water/Sewer☐ Expedited Consideration☐ Proposed Order☐ Other:☐ Administrative Matter☐ Interconnection Agreement☐ Protest☐ Other:☐ Interconnection Amendment☐ Publisher's Affidavit☐ Late-Filed Exhibit☐ Report

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September 18, 2008

Mr. Charles L. A. Terreni  
Chief Clerk/Administrator  
South Carolina Public Service Commission  
Synergy Business Park, The Saluda Building  
101 Executive Center Drive  
Columbia, South Carolina 29210


Re: Application of Time Warner Cable Information Services (South Carolina),  
LLC, d/b/a Time Warner Cable to Amend its Certificate of Public  
Convenience and Necessity to Provide Telephone Services in the Service  
Area of PBT Telecom, Inc., and for Alternative Regulation  
**Docket No. 2008-328-C**

Dear Mr. Terreni:

Enclosed for filing on behalf of PBT Telecom, Inc., please find a Return to Motion for Protective Treatment in the above-referenced matter. By copy of this letter and Certificate of Service, all parties of record are being served by U. S. Mail with a copy of this Return to Motion.

Thank you for your assistance.

Very truly yours,



Margaret M. Fox

MMF/ss  
Enclosures

cc: Parties of Record

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2008-328-C

IN RE:    Application of Time Warner Cable Information    )  
         Services (South Carolina), LLC, d/b/a Time        )  
         Warner Cable to Amend its Certificate of Public    )  
         Convenience and Necessity to Provide            )  
         Telephone Services in the Service Area of        )  
         PBT Telecom, Inc. and for Alternative Regulation    )  
         \_\_\_\_\_ )

**RETURN TO MOTION FOR PROTECTIVE TREATMENT**

PBT Telecom, Inc. ("PBT") respectfully submits this Return to the "Motion for Protective Treatment and Basis for Filing Exhibit 3 as Trade Secret," filed by Time Warner Cable Information Services (South Carolina), LLC, doing business as Time Warner Cable ("TWCIS"), in the above-referenced docket.

Rule 103.829(A) of the Rules of the Public Service Commission of South Carolina ("Commission") allows for returns to be filed within ten (10) days after service of a motion. PBT intervened in this proceeding on September 10, 2008, and has not yet been served with a copy of the motion. Therefore, this Return is timely.

In its Motion, TWCIS requests protective treatment of Exhibit 3 to its Application in this proceeding. Exhibit 3 is described as TWCIS' 2007 Telecommunications Company Annual Report. TWCIS claims the information contained in the Annual Report is not

readily available to persons external to TWCIS, and contains confidential and commercially-sensitive information from which its competitors may derive economic value. TWCIS asserts the Company's Annual Report is a "trade secret" as that term is used in the South Carolina Trade Secrets Act, S.C. Code Ann. § 39-8-20(5).

In response to the Motion, PBT respectfully submits:

1. Commission Regulation 103-612(1) provides as follows:

Annual Report. Each telephone utility operating in the State shall file an annual report with the commission and provide a copy to the ORS, giving such information as the commission may direct.

The Telecommunications Company Annual Report form, along with instructions, can be found on the website of the Office of Regulatory Staff ("ORS"). The reports are required to be filed by April 1 of each calendar year for the prior calendar year. Therefore, TWCIS either filed, or was required to file, a Telecommunications Company Annual Report with the Commission on April 1, 2008, for calendar year 2007. An electronic search of the Commission's docket management system by the undersigned counsel did not turn up any related motion for protective treatment.

2. In any event, TWCIS did provide a copy of its 2007 Telecommunications Company Annual Report to ORS on or around April 1, 2008. Upon information and belief, TWCIS did not make a motion for protective treatment of the Annual Report or take other appropriate steps to protect the confidentiality of the Annual Report at the time it provided a copy of the Annual Report to ORS.

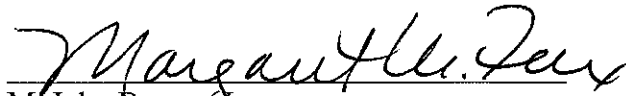
3. Based upon the foregoing, PBT believes that TWCIS has already provided a copy of its 2007 Telecommunications Company Annual Report to ORS, a public agency.

Therefore, the Annual Report is a public record as defined in the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-20(c). It would be futile for the Commission to grant protective treatment to something that is already in the public domain.

4. Furthermore, the Annual Report does not meet the definition of a “trade secret” under state law. Even if TWCIS’ characterization of the information (confidential and commercially-sensitive information from which its competitors may derive economic value) were true, TWCIS has omitted a crucial element of the statutory definition. Under state law, information can be considered a “trade secret” only if it “is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” S.C. Code Ann. 39-8-20(5)(a)(ii). In this case, TWCIS has filed the document with a public body, thereby making it a public record. Because TWCIS has already placed the information in the public domain by making it available on an unprotected basis to a public body, TWCIS cannot reasonably maintain that the information constitutes a trade secret under state law.

WHEREFORE, for the reasons stated herein, PBT Telecom, Inc. respectfully requests that the Commission deny TWCIS’ Motion for Protective Treatment of Exhibit 3 to its Application in the above-referenced matter; and grant such other and further relief as is just and proper.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.

Margaret M. Fox

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Attorneys for PBT Telecom, Inc.

Columbia, South Carolina

September 18, 2008

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 2008-328-C

IN RE:    Application of Time Warner Cable Information    )  
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         Warner Cable to Amend its Certificate of Public    )  
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\_\_\_\_\_ )

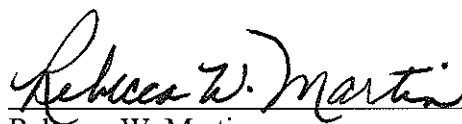
**CERTIFICATE  
OF SERVICE**

This is to certify that I, Rebecca W. Martin, an employee with the McNair Law Firm, P. A., have this date served one (1) copy of a Return to Motion for Protective Treatment in the above-referenced matter to the persons named below by causing said copy to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.

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Nanette S. Edwards, Esquire  
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September 18, 2008

Columbia, South Carolina